

<p>1 UNITED STATES DISTRICT COURT</p> <p>2 FOR THE EASTERN DISTRICT OF VIRGINIA</p> <p>3 Richmond Division</p> <p>4 -----x</p> <p>5 ePLUS, iNC.,)</p> <p>6 Plaintiff,)</p> <p>7 v.) Civil Action No.</p> <p>8 LAWSON SOFTWARE, INC.,) 3:09-cv-620(REP)</p> <p>9 Defendant.)</p> <p>10 -----x</p> <p>11</p> <p>12 VIDEOTAPED DEPOSITION OF</p> <p>13 MICHAEL IAN SHAMOS, Ph.D., J.D.</p> <p>14 Washington, DC</p> <p>15 Wednesday, June 16, 2010</p> <p>16 10:06 a.m.</p> <p>17</p> <p>18</p> <p>19</p> <p>20 Job No.: 1-181012</p> <p>21 Pages 1 - 252</p> <p>22 Reported By: Joan V. Cain</p>	<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 ON BEHALF OF PLAINTIFF:</p> <p>4 JENNIFER A. ALBERT, ESQUIRE</p> <p>5 SCOTT L. ROBERTSON, ESQUIRE</p> <p>6 GOODWIN PROCTER, LLP</p> <p>7 901 New York Avenue, Northwest</p> <p>8 Washington, DC 20001</p> <p>9 Telephone: (202) 346-4000</p> <p>10</p> <p>11 ON BEHALF OF DEFENDANT:</p> <p>12 KIRSTIN L. STOLL-DEBELL, ESQUIRE</p> <p>13 MERCHANT & GOULD</p> <p>14 Suite 1950</p> <p>15 1050 Seventeenth Street</p> <p>16 Denver, Colorado 80265</p> <p>17 Telephone: (303) 357-1670</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20 Akim Graham, Videographer</p> <p>21</p> <p>22</p>
<p>1 Videotaped Deposition of MICHAEL IAN SHAMOS,</p> <p>2 Ph.D., J.D., held at the law offices of:</p> <p>3</p> <p>4 GOODWIN PROCTER, LLP</p> <p>5 901 New York Avenue, Northwest</p> <p>6 Washington, DC 20001</p> <p>7 (202) 346-4000</p> <p>8</p> <p>9 Pursuant to Notice, before Joan V. Cain,</p> <p>10 Court Reporter and Notary Public in and for the</p> <p>11 District of Columbia.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 C O N T E N T S</p> <p>2</p> <p>3 EXAMINATION OF MICHAEL IAN SHAMOS, Ph.D., J.D. PAGE</p> <p>4 By Ms. Albert 7</p> <p>5 By Ms. Stoll-DeBell 245</p> <p>6</p> <p>7 E X H I B I T S</p> <p>8 (Attached to the Transcript.)</p> <p>9 SHAMOS DEPOSITION EXHIBITS PAGE</p> <p>10 Exh. 1 Rebuttal Report of Expert Michael I. 24</p> <p>11 Shamos, Ph.D., J.D. Concerning</p> <p>12 Non-Infringement</p> <p>13 Exh. 2 Report of Expert Michael I. Shamos, 32</p> <p>14 Ph.D., J.D. Concerning Invalidity</p> <p>15 Exh. 3 Document Entitled Chapter 20: 65</p> <p>16 Application Changes, bearing Bates</p> <p>17 Nos. L 0373955 through '4057</p> <p>18 Exh. 4 Document Entitled 8.0.3 Inventory 73</p> <p>19 Control Release Notes bearing Bates</p> <p>20 Nos. L 0030416 through '420</p> <p>21</p> <p>22</p>

<p style="text-align: right;">237</p> <p>1 I'll have to look.</p> <p>2 Q Then going back to your obviousness</p> <p>3 opinions in the text of your report starting at page</p> <p>4 65 through page 67, you've rendered the opinion that</p> <p>5 the asserted claims are obvious based upon the RIMS</p> <p>6 system as disclosed in the '989 patent and RIMS</p> <p>7 brochure combined with the system disclosed in the</p> <p>8 Dworkin patent; is that accurate?</p> <p>9 A Yes.</p> <p>10 Q And then beginning at page -- well, at the</p> <p>11 bottom of page 67 through a portion of page 68, you</p> <p>12 set forth your opinions that the asserted claims are</p> <p>13 obvious based on the combination of the J-CON system</p> <p>14 and the Dworkin patent, correct?</p> <p>15 A Yes.</p> <p>16 Q And which version of the J-CON system are</p> <p>17 you relying on for that opinion?</p> <p>18 A There was a J-CON Manual. So reference 7</p> <p>19 on page 26 is J-CON system described in the J-CON</p> <p>20 Manual. I think I mentioned there that the J-CON</p> <p>21 Manual has cross-references to other pieces of it,</p> <p>22 so that's collectively taken as one reference.</p>	<p style="text-align: right;">239</p> <p>1 render all the asserted claims obvious, and in the</p> <p>2 spreadsheet it's confined to particular claims.</p> <p>3 Q Okay. Can you turn back to the claim chart</p> <p>4 at page 84?</p> <p>5 A Yes.</p> <p>6 Q And with reference to the means for</p> <p>7 building a requisition element there in the Dworkin</p> <p>8 patent --</p> <p>9 A Yes.</p> <p>10 Q -- you acknowledge that building</p> <p>11 requisitions is not disclosed in Dworkin; however,</p> <p>12 you state that, "It would have been obvious to use</p> <p>13 the product search and selection mechanism of</p> <p>14 Dworkin to build requisitions, as suggested, e.g.,</p> <p>15 by Fisher RIMS, P.O. Writer, Gateway, J-CON, TV/2,</p> <p>16 King Jr. or Doyle."</p> <p>17 So is this an 8-reference combination, or</p> <p>18 do I need to consider all of the different possible</p> <p>19 permutations of the eight references?</p> <p>20 A I don't think -- well, let me -- let me</p> <p>21 explain what this means. So I'm one of skill in the</p> <p>22 art. Let's suppose I were one of skill in the art.</p>
<p style="text-align: right;">238</p> <p>1 Q And then -- let's see. At the bottom of</p> <p>2 page 68 through the top of page 69, you set forth</p> <p>3 your opinions that the combination of the J-CON</p> <p>4 system and the P.O. Writer system render the</p> <p>5 asserted claims obvious, correct?</p> <p>6 A Yes.</p> <p>7 Q And then on page 69 you set forth your</p> <p>8 opinion that the combination of the J-CON system</p> <p>9 with the 2000 MRO version of the Gateway system</p> <p>10 renders the asserted claims obvious, correct?</p> <p>11 A Yes.</p> <p>12 Q Are those five combinations the only</p> <p>13 combinations for which you have opined that the</p> <p>14 asserted claims are obvious?</p> <p>15 A No. There's stuff in -- as we talked about</p> <p>16 when you were questioning me on the spreadsheet,</p> <p>17 there are other opinions in the spreadsheet.</p> <p>18 Q Okay. So the combinations in the</p> <p>19 spreadsheet should also be considered among your</p> <p>20 obviousness opinions?</p> <p>21 A Yes. I think that what's going on here in</p> <p>22 this section is I'm talking about combinations that</p>	<p style="text-align: right;">240</p> <p>1 I -- I'm confronted with Dworkin, and the question</p> <p>2 is has my art taught me that the system of Dworkin</p> <p>3 can be used -- should be able to be used to build</p> <p>4 requisitions or I should modify it to do so, and I</p> <p>5 say yes because they're ample teachings. Fisher</p> <p>6 RIMS says that, P.O. Writer, et cetera, et cetera.</p> <p>7 Each one says that.</p> <p>8 So that is a combined teaching of the</p> <p>9 background of the art. So under KSR we don't have</p> <p>10 to go into an 8-reference combination about it. It</p> <p>11 -- it -- it shows that that -- that's the way the</p> <p>12 art was going is to have these unified sourcing</p> <p>13 systems that took everything from the search all the</p> <p>14 way through to the purchase order.</p> <p>15 Now, if you want to -- if you want to go</p> <p>16 through and look at Dworkin plus RIMS, Dworkin plus</p> <p>17 P.O. Writer, Dworkin plus Gateway, I didn't phrase</p> <p>18 it that way, but all those -- all of those</p> <p>19 references teach the same thing, which is the</p> <p>20 building of requisitions after product search, and</p> <p>21 so it's --</p> <p>22 Q So any one of the -- Dworkin plus any one</p>